

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KENNETH CRAWFORD,

Petitioner,

Case Number: 2:08-CV-12060

v.

HONORABLE GERALD E. ROSEN

WAYNE COUNTY PROSECUTOR, ET AL.,

Respondents.

**OPINION AND ORDER TRANSFERRING SUCCESSIVE
PETITION FOR WRIT OF HABEAS CORPUS TO UNITED STATES
COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Petitioner Kenneth Crawford is currently incarcerated at the Ryan Road Correctional Facility in Detroit, Michigan. He has filed a *pro se* petition for a writ of habeas corpus. For the reasons set forth below, the Court determines that this is a successive habeas corpus petition and, therefore, orders it transferred to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631¹ and 28 U.S.C. § 2244(b)(3)(A).

In the pending petition, Petitioner challenges his conviction for first-degree murder, rendered in Wayne County Circuit Court. On November 12, 1975, Petitioner was sentenced to life imprisonment.

Petitioner previously has filed two petitions challenging the conviction challenged in the

¹ 28 U.S.C. § 1631 provides, in relevant part:

Whenever a civil action is filed in a court . . . and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed . . .

pending petition. In 1981, Petitioner filed a habeas corpus petition in this court challenging his first-degree murder conviction. The District Court dismissed the petition on the merits. *See Crawford v. Mintzes* No. 81-72508 (E.D. Mich. May 25, 1982) (Taylor, J.). Petitioner's second habeas petition challenging his first-degree murder conviction was filed in 2000. That petition was transferred to the Sixth Circuit Court of Appeals as a successive habeas petition. *See Crawford v. Robinson*, No. 00-74307 (E.D. Mich. Apr. 20, 2001).

Before a prisoner may file a habeas petition challenging a conviction already challenged in a prior habeas petition, the prisoner must "move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(b)(3)(A). The current petition challenges the same conviction challenged in the first and second habeas petitions. Petitioner has not obtained from the Court of Appeals for the Sixth Circuit authorization to file a second or successive petition in this Court. The Sixth Circuit has held that "when a second or successive petition for habeas corpus relief or § 2255 motion is filed in the district court without § 2244(b)(3) authorization from this court, the district court shall transfer the document to this court pursuant to 28 U.S.C. § 1631." *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

Accordingly, **IT IS ORDERED** that the petition for a writ of habeas corpus be **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit.

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

Dated: May 23, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 23, 2008, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager